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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2011-730**

12 **THOMAS WILLIAM CASA**
13 5412 Seasons Drive
Bakersfield, CA 93313

A C C U S A T I O N

14 Registered Nurse License No. 432971
15 Certified Registered Nurse Anesthetist License No. 1302

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about October 31, 1988, the Board issued Registered Nurse License No.
23 432971 to Thomas William Casa (Respondent). The Registered Nurse License expired on
24 November 30, 2010, and has not been renewed.

25 3. On or about October 3, 1988, the Board of Registered Nursing issued Certified
26 Registered Nurse Anesthetist License No. 1302 to Thomas William Casa (Respondent). The
27 Certified Registered Nurse Anesthetist License expired on November 30, 2010, and has not been
28 renewed.

JURISDICTION

4. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

5. Section 22 of the Code states:

"(a) 'Board' as used in any provisions of this Code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and 'agency.'

"(b) Whenever the regulatory program of a board that is subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2 (commencing with Section 473), is taken over by the department, that program shall be designated as a 'bureau.'"

6. Section 150 of the Code states: "The department is under the control of a civil executive officer who is known as the Director of Consumer Affairs."

7. Section 477 of the Code states:

As used in this division:

"(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and 'agency.'

"(b) 'License' includes certificate, registration or other means to engage in a business or profession regulated by this code."

8. Section 118, subdivision (b), of the Code provides that the suspension/ expiration/ surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

1 9. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
2 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
3 licensee or to render a decision imposing discipline on the license.

4 10. Section 2811(b) of the Code provides, in pertinent part, that the Board may renew an
5 expired license at any time within eight years after the expiration.

6 11. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
7 that the Board may discipline any licensee, including a licensee holding a temporary or an
8 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
9 Nursing Practice Act.

10 12. Section 2761 of the Code states:

11 "The board may take disciplinary action against a certified or licensed nurse or deny an
12 application for a certificate or license for any of the following:

13 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

14 ...

15 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
16 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
17 Act] or regulations adopted pursuant to it.

18 ...

19 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
20 functions, and duties of a registered nurse, in which event the record of the conviction shall be
21 conclusive evidence thereof.

22 13. Section 2762 of the Code states:

23 "In addition to other acts constituting unprofessional conduct within the meaning of this
24 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
25 chapter to do any of the following:

26 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
27 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
28 administer to another, any controlled substance as defined in Division 10 (commencing with

1 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
2 defined in Section 4022.

3 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
4 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
5 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
6 himself or herself, any other person, or the public or to the extent that such use impairs his or her
7 ability to conduct with safety to the public the practice authorized by his or her license.

8 ...

9 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
10 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
11 section."

12 14. Section 490 of the Code provides, in pertinent part, that a board may suspend or
13 revoke a license on the ground that the licensee has been convicted of a crime substantially
14 related to the qualifications, functions, or duties of the business or profession for which the
15 license was issued.

16 15. Section 492 states:

17 "Notwithstanding any other provision of law, successful completion of any diversion
18 program under the Penal Code, or successful completion of an alcohol and drug problem
19 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
20 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
21 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
22 division, from taking disciplinary action against a licensee or from denying a license for
23 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
24 record pertaining to an arrest."

25 "This section shall be construed to apply to any drug diversion program operated by any
26 agency established under Division 2 (commencing with Section 500) of this code, or any
27 initiative act referred to in that division."

28 16. Section 493 of the Code states:

1 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
2 the department pursuant to law to deny an application for a license or to suspend or revoke a
3 license or otherwise take disciplinary action against a person who holds a license, upon the
4 ground that the applicant or the licensee has been convicted of a crime substantially related to the
5 qualifications, functions, and duties of the licensee in question, the record of conviction of the
6 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
7 and the board may inquire into the circumstances surrounding the commission of the crime in
8 order to fix the degree of discipline or to determine if the conviction is substantially related to the
9 qualifications, functions, and duties of the licensee in question.

10 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
11 'registration.'"

12 17. California Code of Regulations, title 16, section 1444, states:

13 "A conviction or act shall be considered to be substantially related to the qualifications,
14 functions or duties of a registered nurse if to a substantial degree it evidences the present or
15 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
16 safety, or welfare.

17 18. Section 4060 of the Code provides in pertinent part:

18 "No person shall possess any controlled substance, except that furnished to a person upon
19 the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug
20 order issued by a certified nurse midwife, . . . a nurse practitioner. . . , or a physician assistant. . ."

21 19. Health and Safety Code section 11550 (a) states in pertinent part:

22 "(a) No person shall use, or be under the influence of any controlled substance which is (1)
23 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
24 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified
25 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d)
26 or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in
27 Schedule III, IV, or V, except when administered by or under the direction of a person licensed
28 by the state to dispense, prescribe, or administer controlled substances. . . ."

1 20. Health and Safety Code section 11170, states:

2 "No person shall prescribe, administer, or furnish a controlled substance for himself."

3 21. Health and Safety Code section 11173(a) provides that no person shall obtain or
4 attempt to obtain controlled substances, or procure or attempt to procure the administration of or
5 prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or
6 (2) by the concealment of a material fact.

7 22. Health and Safety Code section 11350(a) provides: "Except as otherwise provided in
8 this division, every person who possesses (1) any controlled substance specified in subdivision
9 (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15),
10 or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
11 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified
12 in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a
13 physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by
14 imprisonment in the state prison."

15 23. A "dangerous drug" is any drug unsafe for self-medication within the
16 meaning of section 4022 in that it requires a prescription under federal law.

17 24. Section 125.3 of the Code provides, in pertinent part, that the Board/ Registrar/
18 Director may request the administrative law judge to direct a licensee found to have committed a
19 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
20 investigation and enforcement of the case.

21 25. **CONTROLLED SUBSTANCES**

22 a. "Morphine/ Morphine Sulfate" is a generic name for a medication sold under the
23 brand name of Roxanol, and is classified as a narcotic pain reliever and is a Schedule II controlled
24 substance as designated by Health and Safety Code sec. 11055(b)(1)(M), and is a dangerous drug
25 pursuant to section 4022 because it requires a prescription under federal law.

26 b. "Meperidine" (Demerol) is a Schedule II controlled substance as designated by Health
27 and Safety Code sec. 11055(c)(17), and is a dangerous drug pursuant to section 4022.

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FIRST CAUSE FOR DISCIPLINE

(Illegally Obtain / Possess Controlled Substance- Morphine/Morphine Sulfate)

26. Respondent is subject to disciplinary action under Sections 2750, 2761(a), 2761(d),

2762(a), and 4060 for unprofessional conduct, in that on or about August 15, 2008, Respondent was illegally in possession of a controlled substance, to wit, Morphine/Morphine Sulfate. The circumstances are as follows:

a. On or about January 19, 2011, pursuant to the filing of a criminal complaint in the matter of *People v. Thomas William Casa* (Superior Court Kern County, No. DF010129A). Respondent was found in possession of Morphine/Morphine Sulfate, a controlled substance and dangerous drug, without a valid prescription, as alleged in the underlying circumstances of the criminal complaint. After pleading guilty on January 19, 2011, Respondent was convicted of one misdemeanor count of violating Health and Safety Code section 11350(a) [possession of a controlled substance, to wit, morphine]. The Court placed Respondent in the Deferred Entry of Judgment Program. The circumstances of the underlying possession of Morphine/Morphine Sulfate are as follows:

b. In August, 2008, Respondent began working as an independent contractor Certified Registered Nurse Anesthetist (CRNA) under Dr. H., Medical Director of Anesthesiology, at Delano Regional Medical Center in Delano, CA (DRMC). Approximately one week after starting work, Respondent developed a medical condition for which his treating physician recommended he received inpatient care at Kaiser Permanente (Kaiser). Respondent instead opted to be treated on an outpatient basis at Kaiser where he was administered IV antibiotics, Vicodin and Morphine.

c. On or about August 14, 2008, Dr. H. noticed discrepancies related to patients' controlled substance record sheets in the Controlled Substance Record Log (CSRL) for some narcotics, including Morphine/Morphine Sulfate. Consequently, a number of anesthesia

providers, including Respondent, submitted blood samples for drug testing on or about August 15, 2008.

d. When the drug test results were released on August 28, 2008, Respondent was the only staff member that tested positive for Morphine/Morphine Sulfate. Respondent tested positive at the level of .16 mg./L, which is a potentially "toxic level".

e At the time Respondent's blood was drawn for the test on or about August 15, 2008, Respondent reported that he had received an intravenous dose of 2 mg. Morphine two (2) days earlier, on August 13, 2008 for his existing medical condition. However, Morphine/Morphine Sulfate has a half-life of approximately two (2) hours and the duration of this dose would have been about four to six (4-6) hours and would have dissipated from Respondent's system.

f. Respondent's clinical privileges as a CRNA were revoked effective September 3, 2008 and Respondent was terminated from his employment status on September 6, 2008.

g. In or about April and May, 2010, Respondent admitted to DOI investigators that in August, 2008, he had diverted Morphine/Morphine Sulfate from DRMC by diverting portions that should have been wasted, in order to supplement the MS he had been receiving from Kaiser for his medical condition

SECOND CAUSE FOR DISCIPLINE

(Falsification of Records Pertaining to Controlled Substances-Meperidine (Demerol))

27. Respondent is subject to disciplinary action under sections 2750, 2762, subdivision (e), on the grounds of unprofessional conduct, in that on or about August 14, 2008, while working as a CRNA at DRMC, Respondent falsified, or made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital, patient, or other record pertaining to controlled substances for patients. Complainant incorporates by reference the preceding paragraph 26 and all subparts. The circumstances are as follows:

a. On or about August 14, 2008, Respondent signed the CSRL that documented that his assigned narcotic box contained the following vials of medication when opened:

Medication:	Fentanyl	Fentanyl	Midazolam	Duramorph	Meperidine	Morphine
Vial Size:	5 ml	2 ml	2 ml	5 mg	25 mg	10 mg
# of Vials:	2	10	10	2	4	10
Starting Inventory Levels:	10 ml	20 ml	20 ml	10 mg	100 mg	100 mg

b. On or about August 14, 2008, Respondent recorded in the CSRL that he had administered the following controlled substances and/or dangerous drugs to patients 1 through 7 during his shift:

	Medication:	Vial Size:	Starting # of vials:	Balance # of vials:	Amount Used:	Amount Wasted:	Co-signature for waste
Patient #1	Meperidine (Demerol)	25 mg	4	3	25 mg	0	No waste
	Morphine	10 mg	10	9	1 mg	9 mg	Yes
Patient #2	Meperidine	25 mg	3	2	25 mg	0	No waste
	Morphine	10 mg	9	8	2 mg	8 mg	Yes
Patient #3	Meperidine	25 mg	2	1	25 mg	0	No waste
	Morphine	10 mg	8	7	3 mg	7 mg	Yes
Patient #4	Meperidine	25 mg	1	0	25 mg	0	No waste
Patient #5	Meperidine	25 mg	0	-1	50 mg	0	Not listed on Controlled Substance Record
	Morphine	10 mg	7	6	5 mg	5 mg	No
Patient #6	Fentanyl	5 ml	2	1	250 mcg	0	No waste
	Midazolam (Versed)	2 ml	10	8	4 ml	0	No waste
	Morphine	10 mg	6	4	20 mg	0	No waste
Patient #7	Midazolam	2 ml	8	6	4 ml	0	No waste
	Morphine	10 mg	4	3	10 mg	0	No waste

c. Respondent documented and recorded in the CSRL that he administered 50 mg of Meperidine (Demerol) to Patient #5. However, Respondent also documented and recorded that four vials (100 mg.) of Meperidine were in his assigned narcotics box when his shift started, and that he had exhausted this supply of four vials (100 mg.) of Meperidine in administering and wasting excess Meperidine to patients 1 through 4, prior to his purported administration of 50 additional mg. of Meperidine to patient 5.

THIRD CAUSE FOR DISCIPLINE

(Obtaining/Possessing Controlled Substances By Fraud-Morphine/Morphine Sulfate)

28. Respondent is subject to disciplinary action under section 2750, 2762, subdivision (a), for violation of Health and Safety Code section 11173, subd. (a) in that he obtained or possessed a

1 controlled substance, to wit, Morphine/Morphine Sulfate, on or about August 15, 2008, while on
2 duty as a CRNA at DRMC. The circumstances are as alleged in the preceding paragraph 26,
3 including all subparts, which Complainant incorporates by reference as though fully set forth.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Illegal Use of Controlled Substance-Morphine/Morphine Sulfate)**

6 29. Respondent is subject to disciplinary action pursuant to Sections 2750, 2761(a),
7 2761(d), 2762(b), and Health and Safety Code sections 11550 (a) and 11170 on the grounds of
8 unprofessional conduct, in that on or about August 15, 2008, Respondent used a controlled
9 substance, to wit: Morphine/Morphine Sulfate, and that such use was further, in a manner
10 dangerous or injurious to herself, or others. The circumstances are as alleged in the preceding
11 paragraph 26, including all subparts, which Complainant incorporates by reference as though
12 fully set forth.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Illegally Obtain / Possess Controlled Substance- Morphine/Morphine Sulfate)**

15 30. Respondent is subject to disciplinary action under Sections 2750, 2761(a), 2761(d),
16 2762(a), and 4060 for unprofessional conduct, in that on or about August 15, 2007, Respondent
17 was illegally in possession of a controlled substance, to wit, Morphine/Morphine Sulfate. The
18 circumstances are as alleged in the preceding paragraph 26, including all subparts, which
19 Complainant incorporates by reference as though fully set forth.

20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Registered Nursing issue a decision:

- 23 1. Revoking or suspending Registered Nurse License Number 432971, issued to
24 Thomas William Casa;
25 2. Revoking or suspending Certified Registered Nurse Anesthetist License No. 1302,
26 issued to Thomas William Casa;

27 ///

28 ///

3. Ordering Thomas William Casa to pay the Board of Registered Nursing the
reasonable costs of the investigation and enforcement of this case, pursuant to Business and
Professions Code section 125.3;

4. Taking such other and further action as deemed necessary and proper.

DATED:

2/25/11

Louise R. Bailey
LOUISE R. BAILEY, M.Ed., RN

Executive Officer

Board of Registered Nursing

Department of Consumer Affairs

State of California

Complainant

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